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of the life tenant so as to give him a fee, or merely gives him a power to pass the reversion, and not an absolute interest, the intention of the testator must be ascertained and upheld.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 789.]

2. Wills (§ 616 (1)*)—Mere Power to Convey Reversion Does Not Enlarge Life Estate Into Fee.—The mere fact that a power to convey the reversion is attached to a life estate will not necessarily enlarge the life estate of the first taker into a fee.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 180.]

3. Wills (§ 616 (5)*)—Devise to Wife Held Power of Appointment as to Reversion Not Enlarging Life Estate into Fee.—Where a testator devised to his wife all his estate “for her sole use and benefit so long as she lives, and not to be subject to any debts, claims or demands of any future husband she may marry, and at her death to be disposed of as she may deem proper and think best,” the wife was given a mere power of appointment as to the reversion, and not a power of disposal, enlarging her life estate into a fee.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 826.]

4. Wills (§ 694*)—Where Life Tenant's Power of Disposition of Reversion Is Not Exercised, Estate Passes by Inheritance.—Where a testator gave his wife a life estate, with a power of appointment as to the reversion insufficient to enlarge her life estate into a fee, and the widow failed to exercise such power, the estate passed by inheritance to the heirs of the testator.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 838.]

Appeal from Circuit Court, Orange County.

Suit by Smith Davis and others against Parks G. Kendall and others, to construe the will of Robert P. Davis, deceased. From a decree dismissing complainants' bill on demurrer, complainants appeal. Reversed and remanded.

Browning & Browning, of Orange, for appellants.

W. W. Butzner, of Fredericksburg, *S. A. Anderson*, of Richmond, and *Shackelford & Robertson*, of Orange, for appellees.

WESTON'S ADM'X *v.* HOSPITAL OF ST. VINCENT OF PAUL.

June 23, 1921.

[107 S. E. 785.]

1. Corporations (§ 370 (2)*)—One Is Required to Take Notice of Provisions of Charter of Corporation with Which He Deals.—One who deals with a corporation is bound to take notice of the provi-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

sions of its charter for the management and control of its affairs.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 550.]

2. Charities (§ 45 (2)*)—Charity Hospital's Exemption from Liability Not Affected by Fact that Patient Was New-Born Baby.—Under Code 1919, § 5787, a charitable hospital's exemption from liability for injuries to patient was not affected by the fact that the patient was a new-born baby, who could not contract, since the father, in the selection of the hospital for birth of the baby, assumed the risk in the baby's behalf.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 175; 16 Va.-W. Va. Enc. Dig. 651.]

3. Charities (§ 45 (2)*)—Charity Hospital Not Liable for Negligence of Physicians in Treatment of Patients.—In the absence of a special contract to the contrary, a charity hospital is not liable for the negligence of its physicians in the treatment of patients.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 175; 16 Va.-W. Va. Enc. Dig. 651.]

4. Charities (§ 45 (2)*)—Charity Hospital Not Liable for Negligence of Nurse Chosen with Due Care.—A charity hospital's liability for injuries to a patient as the result of a nurse's negligence is limited to the failure to exercise due care in the employment of the nurse, and the hospital having exercised due care in the selection of the nurse, is not liable for her negligence, though the injured patient is a pay patient, and became such without actual knowledge of the charitable character of the hospital; such exemption from liability being in the interest of public policy.

Sims and Saunders, JJ., dissenting.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 175; 16 Va.-W. Va. Enc. Dig. 651.]

Error to Circuit Court of City of Norfolk.

Action by Mrs. Durant Weston as administratrix against the Hospital of St. Vincent of Paul. Judgment for defendant, and plaintiff brings error. Affirmed.

Jas. G. Martin, of Norfolk, for plaintiff in error.

R. B. Spindle, Jr., and *Jas. E. Heath*, both of Norfolk, for defendant in error.

MATTHEWS *v.* LA PRADE.

June 16, 1921.

[107 S. E. 795.]

1. Vendor and Purchaser (§ 349*)—Notice of Motion to Recover for Breach of Option Contract Must Allege Exercise.—A notice of a

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.